

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CR-1090-2021(O&M)

Date of decision:-6.1.2023

Amarjit Kaur @ Gurpreet and others

...Petitioners

Versus

Sodhi Singh and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Neeraj Jain, Advocate  
for the petitioners.

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**H.S. MADAAN, J.**

1. This revision petition is directed against the order dated 3.2.2021 passed by Additional District Judge, Jalandhar vide which he had partly allowed and set aside the order dated 15.10.2020 passed by Civil Judge (Jr.Divn.), Phillaur on application under Order 39 Rules 1 & 2 CPC in Civil Suit titled 'Sodhi Singh and Anr. Versus Satwant Singh and Others'. The revision petitioners before this Court are defendants in the civil suit.

2. Briefly stated, facts of the case are that plaintiffs Sodhi Singh and another had brought a suit for grant of permanent injunction against defendants Satwant Singh and others contending that the plaintiffs are co-owners in possession of the suit properties, with which the defendants

have no concern, however defendants threatened to take forcible possession thereof from the plaintiffs. Feeling aggrieved the plaintiffs had to knock at the door of the Court by way of filing the suit. Along with the suit an application under Order 39 Rules 1 & 2 CPC for grant of ad interim injunction was also filed.

3. On notice, the defendants appeared and filed written statement and reply to the application contending that Jagtar Singh plaintiff No.2, who is alleging himself to be Narinder Singh is not actually Narinder Singh and he is wrongly claiming himself to be brother of defendant No.3 in order to grab the suit properties; defendant No.3 is co-owner in possession of the suit properties and plaintiffs have filed the suit just to grab such properties.

4. After hearing the counsel for the parties and going through the record, the trial Court of Civil Judge(Jr.Divn.), Phillaur vide order dated 15.10.2020 accepted the application restraining the defendants from interfering into the peaceful possession of the plaintiffs over the property situated at village Cheema Khurd and village Massani, Tehsil Phillaur, District Jalandhar. Whereas the application qua the land situated within the revenue estate of village Cheema Kalan was dismissed. The reasoning given for arriving at such conclusion was that as per revenue record available on the file, the plaintiffs are co-owners in possession of the properties situated in the area of village Cheema Khurd, Massani, whereas with regard to the property situated at village Cheema Kalan defendant No.3 Amarjit Kaur is also shown as co-owner, therefore she is having lawful title over the property situated at village Cheema Kalan, in that

way no injunction can be granted to the plaintiffs over the property at village Cheema Kalan, which is still joint between the parties as possession of one co-sharer is possession of all.

5. Feeling aggrieved by such order passed by the trial Court of Civil Judge (Jr.Divn.), Phillaur, the plaintiffs had preferred an appeal before the Court of District Judge, Jalandhar, which was assigned to Additional District Judge, Jalandhar, who vide order dated 3.2.2021 accepted it partly, leaving the defendants aggrieved and they have approached this Court by way of filing the present revision petition.

6. Notice of the revision petition was issued to the respondents, who were duly served but did not put in appearance.

7. I have heard learned counsel for the revision petitioners besides going through the record.

8. The subject matter of the suit is in the form of three properties i.e. Property A situated at village Cheema Khurd, Property B situated at village Cheema Kalan and Property C situated at village Massani. With regard to the properties at village Cheema Khurd and village Massani, as per revenue record available on the record, the plaintiffs are reflected to be co-owners in those properties and defendants are not found to have any right or title therein. The trial Court vide order dated 15.10.2020 had granted ad interim injunction to the plaintiffs qua Property A of village Cheema Khurd and Property C of village Massani. The defendants had not challenged the order passed by the trial Court. Therefore, they are bound by the order. The dispute between the parties, which required adjudication was with regard to Property B at village

Cheema Kalan. Learned Additional District Judge, Jalandhar vide detailed discussion in para No.7 of the impugned order dated 3.2.2021 has drawn an inference that as impliedly conceded by defendants, Jagtar Singh is also known as Narinder Singh and even otherwise it comes out to be so. Para No.9 of the impugned order passed by learned Additional District Judge, Jalandhar is quite relevant and for ready reference the same is being reproduced as under:

*9. Having prima-facie satisfied itself about identity and authority, now the important question is about entitlement of the parties. Clearly name of plaintiff No.2 appears to be the owner in considerable part of the land, situated in village Cheema Kalan. But at the same time name of Amarjit Kaur also appears in the same holding to limited extent. So both plaintiffs and defendant No.3 are found to be co-sharers. Possession of one co-sharer is considered to be the possession of all. So in such circumstances, neither plaintiffs, nor defendants in any manner can claim that they are in exclusive possession. Both the parties are claiming exclusive possession, but unless a clear partition took place, same cannot be permitted. But that does not mean that any party with physical force can exclude the other from the possession. Defendant No.3 is claiming exclusive possession and has placed on record some photographs also. But from photographs, no conclusive idea is possible. Nor a co-sharer can exclude other co-sharer. Similar is the the status of claim of plaintiffs. The order of learned lower court therefore requires to be slightly modified to the extent and it*

*is ordered that unless the rights of the parties are absolutely crystallized finally in the present suit or alternatively in proper partition proceedings , none of the parties to the suit (who are recorded as co-sharer )either personally or through duly recognized attorney, will restrict other parties recorded as co-sharer in the jamabandi, from enjoying the property as such unpartitioned property must be deemed in joint possession of all co-sharer. Since concept of exclusive possession is not legally permissible (except under an arrangement which is not claimed by either of the parties in the present case) in cosharer ownership, despite the claim of parties about exclusive possession made in the present suit, the court cannot recognize it. Additionally it is also ordered that none of the parties shall be entitled to claim more than their share as shown in jamabandi under the garb of principle of joint possession.*

9. The versions set up by the parties can be best appreciated after affording them opportunities to lead evidence and then deciding the suit on merits. I do not find any illegality or infirmity in the impugned order, which is certainly not arbitrary or having any element of perversity and also do not find any reason to interfere with the impugned order by exercising revisional jurisdiction.

10. Finding no merit in the revision petition, the same stands dismissed.

However, the trial Court is directed to make earnest

endeavour to complete the trial by giving short adjournments, preferably within a period of one year from the date of passing of this order.

6.1.2023

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**(H.S.MADAAN)**

**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**